IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

Crl.MC.No. 225 of 2007()

OR.28/2001 of THE EXCISE RANGE OFFICE, KASARGODE
PENDING BEFORE THE J.F.C.M, KASARAGOD

.....

PETITIONER: 2ND ACCUSED.

M.K.SUNDARAN PILLAI,
M/S. TRANSWORLD HIRE PURCHASE INDIA LIMITED.,
BUSINESS LANE, BEACH ROAD, KOLLAM.

BY ADV. SRI.M.K.CHANDRA MOHANDAS

RESPONDENTS: COMPLAINANT/STATE.

---

1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE EXCISE INSPECTOR,
EXCISE RANGE, KASARAGOD.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.225 of 2007

Dated this the 26th day of February, 2007

ORDER

The petitioner is the 2nd accused in a prosecution under the provisions of the Kerala Abkari Act. The crux of the allegations is that a vehicle-a Uno car was used by the two accused persons to illicitly transport the contraband liquor without any legal authority. The vehicle was attempted to be stopped. It was not stopped. After a chase, the vehicle was stopped. But the driver took to his heels and no one could be arrested.

2. Investigation allegedly reveals that the vehicle originally belonged to a registered owner, who expired prior to the date of detection of the crime. After the death of the deceased, the vehicle was allegedly repossessed by the petitioner as the Managing Director of the financier, who had entered into the agreement of hire purchase. Thereupon, secret chambers were allegedly built in the car by the two accused persons as per prior concert between them. They had misused the vehicle for illicit transportation of contraband articles violating the provisions of the Kerala Abkari Act. This in short is the allegation.

3. The learned counsel for the petitioner submits that the petitioner has been arrayed as an accused without any sufficient reason. There is no specific and forthright statement as to whether

the vehicle has been repossessed after the death of the deceased-registered owner and what has been done with the vehicle after such alleged repossession if any. In the absence of satisfactory explanation forthcoming, at this stage of the proceedings, I am of opinion that it is not necessary for this Court to delve deep into the nature of the contention regarding the ownership and misuse of the vehicle. It is certainly for the petitioner to raise appropriate contentions to claim discharge under Section 227 Cr.P.C. Even the mere possibility of the accused being entitled to discharge or acquittal at later stages of trial, cannot and need not persuade this Court to invoke powers under Section 482 Cr.P.C to bring to a premature termination a prosecution validly instituted. I am not persuaded to agree from the nature of the facts and circumstances which have presently been brought to my notice that the extraordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C can or deserve to be invoked.

4. This Crl.M.C is, in these circumstances, dismissed. But I may hasten to observe that the dismissal of the Crl.M.C will not fetter the rights of the petitioner to raise all necessary contentions before the appropriate court at the appropriate stage to claim discharge/acquittal in accordance with law.

(R.BASANT, JUDGE)

rtr/-